

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-0828-MSW-E TCEQ ID: RN105298228 CASE NO.: 35851
RESPONDENT NAME: JAMES LINDGREN DBA TOW KING, INC.

Page 1 of 2

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: The intersection of Yeagua Street and J B Riggs Drive, Groesbeck, Limestone County</p> <p>TYPE OF OPERATION: Towing company based in McClennan County</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on February 9, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p style="margin-left: 20px;">TCEQ Attorney: Ms. Stephanie J. Frazee, Litigation Division, MC 175, (512) 239-3693 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019</p> <p style="margin-left: 20px;">TCEQ Enforcement Coordinator: Mr. John Shelton, Waste Enforcement Section, MC 128, (512) 239-2563</p> <p style="margin-left: 20px;">TCEQ Regional Contact: Mr. Frank Burleson, Waco Regional Office, MC R-9, (254) 761-3001</p> <p style="margin-left: 20px;">Respondent: Mr. James Lindgren, President, Tow King, Inc. 7191 Bagby Avenue, Waco, Texas 76712</p> <p style="margin-left: 20px;">Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p> <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review </p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 11, 2008</p> <p>Date of NOE Relating to this Case: April 30, 2008</p> <p>Background Facts: The EDPRP was filed October 24, 2008, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDPRP on October 29, 2008. The Respondent failed to answer the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>The corporate charter for Tow King, Inc. was forfeited February 11, 2005, however, the Respondent continues to utilize Tow King, Inc. as a trade-name.</p> <p>Current Compliance Status: No outstanding Technical Requirements.</p> <p>MSW: Failed to submit a written report describing the details of a spill and supporting the adequacy of the response action within thirty working days of the incident [30 TEX. ADMIN. CODE § 327.5(c)].</p>	<p>Total Assessed: \$1,050</p> <p>Total Deferred: \$0</p> <p> <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset </p> <p>Total Due to General Revenue: \$1,050</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this proposed Order.</p> <p>Site Compliance History Classification N/A</p> <p>Person Compliance History Classification N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Action(s) Taken:</p> <p>The Executive Director recognizes that on August 21, 2008, the Respondent submitted to TCEQ a spill incident report describing the details of the July 27, 2007, spill and supporting the adequacy of the response.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 29, 2008

TCEQ

DATES	Assigned	22-Apr-2008	Screening	7-May-2008	EPA Due	
	PCW	15-Oct-2008				

RESPONDENT/FACILITY INFORMATION

Respondent	James Lindgren dba Tow King, Inc.		
Reg. Ent. Ref. No.	RN105298228		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	35851	No. of Violations	1
Docket No.	2008-0828-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	John Shelton
Multi-Media		EC's Team	Enforcement Team 7
Admin. Penalty \$	Limit Minimum	\$0	Maximum
		\$10,000	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 **\$1,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 5.0% Enhancement Subtotals 2, 3, & 7 **\$50**

Notes One NOV for a same or similar violation.

Culpability No 0.0% Enhancement Subtotal 4 **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0.0% Reduction Subtotal 5 **\$0**

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria.

Total EB Amounts \$5 0.0% Enhancement* Subtotal 6 **\$0**
 Approx. Cost of Compliance \$100 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal **\$1,050**

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% Adjustment **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$1,050**

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty **\$1,050**

DEFERRAL 0.0% Reduction Adjustment **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY **\$1,050**

Screening Date 7-May-2008

Docket No. 2008-0828-MSW-E

PCW

Respondent James Lindgren dba Tow King, Inc.

Policy Revision 2 (September 2002)

Case ID No. 35851

PCW Revision April 29, 2008

Reg. Ent. Reference No. RN105298228

Media [Statute] Municipal Solid Waste

Enf. Coordinator John Shelton

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgments or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

One NOV for a same or similar violation.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 7-May-2008		Docket No. 2008-0828-MSW-E		PCW																	
Respondent James Lindgren dba Tow King, Inc.																					
Case ID No. 35851																					
<i>Policy Revision 2 (September 2002)</i> <i>PCW Revision April 29, 2008</i>																					
Reg. Ent. Reference No. RN105298228																					
Media [Statute] Municipal Solid Waste																					
Enf. Coordinator John Shelton																					
Violation Number		<div style="border: 1px solid black; padding: 2px; text-align: center;">1</div>																			
Rule Cite(s)		<div style="border: 1px solid black; padding: 5px;">30 Tex. Admin. Code § 327.5(c)</div>																			
Violation Description		<div style="border: 1px solid black; padding: 5px;">Failed to submit a written report describing the details of a spill and supporting the adequacy of the response action to the Waco Regional Office within 30 working days of the incident, as documented during an investigation conducted on April 11, 2008. Specifically, no written report had been submitted for the spill of greater than 50 gallons of diesel fuel from a tow truck that occurred at the intersection of Yeagua Street and JB Riggs Drive in Groesbeck, Limestone County, on July 27, 2007.</div>																			
Base Penalty					<div style="border: 1px solid black; padding: 2px; text-align: center;">\$10,000</div>																
>> Environmental, Property and Human Health Matrix																					
OR	<table border="1" style="margin: auto;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> </tr> <tr> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Actual</td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> </table>					Harm			Release	Major	Moderate	Minor	Actual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Potential	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Percent <div style="border: 1px solid black; padding: 2px; text-align: center;">0%</div>
		Harm																			
	Release	Major	Moderate	Minor																	
Actual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																		
Potential	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																		
>> Programmatic Matrix																					
	<table border="1" style="margin: auto;"> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Falsification</td> <td><div style="border: 1px solid black; width: 40px; height: 15px; text-align: center;">x</div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> </table>					Major	Moderate	Minor	Falsification	<div style="border: 1px solid black; width: 40px; height: 15px; text-align: center;">x</div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Percent <div style="border: 1px solid black; padding: 2px; text-align: center;">10%</div>								
	Major	Moderate	Minor																		
Falsification	<div style="border: 1px solid black; width: 40px; height: 15px; text-align: center;">x</div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																		
Matrix Notes	100 percent of the rule requirement was not met.																				
Adjustment					<div style="border: 1px solid black; padding: 2px; text-align: center;">\$9,000</div>																
					<div style="border: 1px solid black; padding: 2px; text-align: center;">\$1,000</div>																
Violation Events																					
Number of Violation Events		<div style="border: 1px solid black; padding: 2px; text-align: center;">1</div>	<div style="border: 1px solid black; padding: 2px; text-align: center;">26</div>	Number of violation days																	
mark only one with an x	daily	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Violation Base Penalty <div style="border: 1px solid black; padding: 2px; text-align: center;">\$1,000</div>																		
	monthly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
	quarterly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
	semiannual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
	annual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
single event	<div style="border: 1px solid black; width: 40px; height: 15px; text-align: center;">x</div>																				
One single event is recommended.																					
Economic Benefit (EB) for this violation			Statutory Limit Test																		
Estimated EB Amount		<div style="border: 1px solid black; padding: 2px; text-align: center;">\$5</div>	Violation Final Penalty Total		<div style="border: 1px solid black; padding: 2px; text-align: center;">\$1,050</div>																
This violation Final Assessed Penalty (adjusted for limits)					<div style="border: 1px solid black; padding: 2px; text-align: center;">\$1,050</div>																

Economic Benefit Worksheet

Respondent James Lindgren dba Tow King, Inc.

Case ID No. 35851

Reg. Ent. Reference No. RN105298228

Media Municipal Solid Waste

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	26-Aug-2007	21-Aug-2008	0.99	\$5	n/a	\$5

Notes for DELAYED costs

Estimated cost of providing a written report to the TCEQ Waco Regional Office. The Date Required is 30 days after the spill occurred and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$5

Compliance History

Customer/Respondent/Owner-Operator: CN603353921 LINDGREN, JAMES Classification: Rating:
Regulated Entity: RN105298228 JB RIGGS DRIVE & YEAGUA Classification: Site Rating:
ID Number(s):
Location: INTERSECTION OF JB RIGGS DRIVE AND YEAGUA STREET, GROESBECK, LIMESTONE COUNTY
TCEQ Region: REGION 09 - WACO
Date Compliance History Prepared: May 13, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: May 13, 2003 to May 13, 2008
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: John Shelton Phone: (512) 239-2563

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 10/09/2007 (571890)
- 2 10/15/2007 (571487)
- 3 02/08/2008 (614406)
- 4 04/17/2008 (646306)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 10/05/2007 (571890)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 327 327.5(c)

Description: Failure to submit a written report of the spill to the Waco Regional Office within 30 working days of the incident.

- F. Environmental audits.

N/A

- G. Type of environmental management systems (EMSs).

N/A

- H. Voluntary on-site compliance assessment dates.

N/A

- I. Participation in a voluntary pollution reduction program.

N/A

- J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
JAMES LINDGREN DBA TOW
KING, INC.,
RN105298228**

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§
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§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER DOCKET NO. 2008-0828-MSW-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty. The respondent made the subject of this Order is James Lindgren dba Tow King, Inc. ("Mr. Lindgren").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Mr. Lindgren owns and operates a towing company located at 7191 Bagby Avenue, Waco, McLennan County, Texas (the "Business").
2. The Business engaged in disposal of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. During an investigation conducted on April 11, 2008, a TCEQ Waco Regional Office investigator documented that Mr. Lindgren failed to submit a written report describing the details of a spill and supporting the adequacy of the response action to the Waco Regional Office within thirty working days of the incident. Specifically, no written report had been submitted for the spill of greater than fifty gallons of diesel fuel from a tow truck that occurred at the intersection of Yeagua Street and JB Riggs Drive in Groesbeck, Limestone County, on July 27, 2007.
4. Mr. Lindgren received notice of the violation on or about May 5, 2008.

5. The Executive Director recognizes that on August 21, 2008, Mr. Lindgren submitted to TCEQ a spill incident report describing the details of the July 27, 2007, spill and supporting the adequacy of the response action as required under 30 TEX. ADMIN. CODE § 327.5(c) in response to this enforcement action.
6. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of James Lindgren dba Tow King, Inc." (the "EDPRP") in the TCEQ Chief Clerk's office on October 24, 2008.
7. By letter dated October 24, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Lindgren with notice of the EDPRP. According to the return receipt "green card," Mr. Lindgren received notice of the EDPRP on October 29, 2008, as evidenced by the signature on the card.
8. More than twenty days have elapsed since Mr. Lindgren received notice of the EDPRP, provided by the Executive Director. Mr. Lindgren failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Lindgren is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 361 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Mr. Lindgren failed to submit a written report describing the details of a spill and supporting the adequacy of the response action to the Waco Regional Office within thirty working days of the accident in violation of 30 TEX. ADMIN. CODE § 327.5(c).
3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served Mr. Lindgren with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
4. As evidenced by Finding of Fact No. 7, Mr. Lindgren failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission

may enter a Default Order against Mr. Lindgren and assess the penalty recommended by the Executive Director.

5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Lindgren for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of one thousand fifty dollars (\$1,050.00) is justified by the facts recited in this Order and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Mr. Lindgren is assessed an administrative penalty in the amount of one thousand fifty dollars (\$1,050.00) for violations of TEX. HEALTH & SAFETY CODE ch. 361 and the rules of the TCEQ. The payment of this administrative penalty and Mr. Lindgren's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within thirty days after the effective date of this Order and shall be sent with the notation "Re: James Lindgren dba Tow King, Inc.; Docket No. 2008-0828-MSW-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. All relief not expressly granted in this Order is denied.

3. The provisions of this Order shall apply to and be binding upon Mr. Lindgren. Mr. Lindgren is ordered to give notice of this Order to personnel who maintain day-to-day control over the Business operations referenced in this Order.
4. If Mr. Lindgren fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Lindgren's failure to comply is not a violation of this Order. Mr. Lindgren shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Lindgren shall notify the Executive Director within seven days after Mr. Lindgren becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Lindgren shall be made in writing to the Executive Director. Extensions are not effective until Mr. Lindgren receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Lindgren if the Executive Director determines that Mr. Lindgren has not complied with one or more of the terms or conditions in this Order.
7. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
8. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF STEPHANIE J. FRAZEE

STATE OF TEXAS

§

COUNTY OF TRAVIS

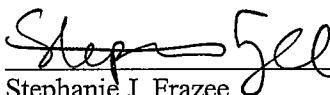
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"My name is Stephanie J. Frazee. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of James Lindgren dba Tow King, Inc." (the "EDPRP") with the Office of the Chief Clerk on October 24, 2008.

I sent the EDPRP to Mr. Lindgren at his last known address on October 24, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Mr. Lindgren received notice of the EDPRP on October 29, 2008, as evidenced by the signature on the card.

More than twenty days have elapsed since Mr. Lindgren received notice of the EDPRP. Mr. Lindgren failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference."



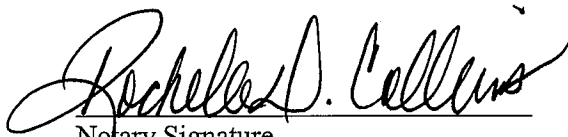
Stephanie J. Frazee

Attorney

Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Stephanie J. Frazee, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 17th day of December, A.D., 2008.



Notary Signature

Notary Stamp

